

SAN DIEGO UNIFIED SCHOOL DISTRICT SELECTING SENIOR HIGH SCHOOL PHOTOGRAPHERS

INTRODUCTION

The 2010/2011 San Diego County Grand Jury acknowledges the fact that there are many administrative problems facing San Diego Unified School District (SDUSD) due to budget cuts related to current economic conditions. However, it is important to address the issue of following policies and procedures where funds are involved, and in determining how a senior high school's photographer is chosen for student pictures, senior portraits, yearbooks and other types of photos as needed on campus.

The Grand Jury received a complaint from a citizen alleging an area senior high school within SDUSD was not following the district's procedure on hiring commercial photographers. Furthermore, the complaint alleged that the senior high school engaged in a "...conflict of interest; personal profit of vendor services ..." and referenced a specific photographer who was awarded the photography contract at that school. The inference was that one photographer had a virtual monopoly on senior high school photos. The complainant also alleged senior high school staff accepted gifts, such as free portraits, in exchange for selecting one photographer over another.

Based on the citizen's complaint, the Grand Jury reviewed written policies and procedures dealing with the method by which commercial photographer contractors were selected for various types of projects at SDUSD senior high schools. The Grand Jury's investigation addressed only the allegation relative to the senior high school's failure to follow the procedure set forth in *Administrative Procedure No. 4938 (AP)* issued by the SDUSD.

Once the Grand Jury had a clear knowledge of what *should* have occurred, it set about determining what *did* occur. Specifically, if the AP was not followed, why, and if not followed, was it merely a one-time oversight or is it a systemic issue?

INVESTIGATION

The Grand Jury initiated an internet search to determine if there were procedures for contracting photography services for senior high schools. The search identified procedures detailed in the AP, which was adopted in 1962 and revised in 2002. To ensure the Grand Jury was reviewing the most current information, the district office was contacted and its legal department provided the current version of the procedure. This proved to be identical to the one available online. The AP states in part the following:

Senior High Schools

a. Principal

(1) Designates one or more senior high school representatives to coordinate scheduling of all senior and faculty portraits and service work related to the yearbook.

(2) Reviews sample bid forms with designee(s), deleting or adding specifications to meet individual senior high school site needs.

b. Designee

(1) Solicits bid in writing or by telephone from at least three (3) qualified bidders able to offer best prices consistent with quality, delivery, and service; maintains a record of contacts made with different companies.

(2) Receives written bids, *keeping them unopened until closing date specified on bid*; assures that witnesses are present when bids are opened.

(3) Reviews photographers' bids with principal.

(4) With consent of the principal, awards bid to photographer offering the quality of work and service desired.

(5) Contacts all photographers who submitted bids to announce successful bidder.¹

DISCUSSION

Once the district's procedure was understood, the Grand Jury requested records from the senior high school cited in the allegations. Several telephone inquiries were made to other senior high schools within SDUSD to ascertain if procedures as outlined above were followed.

The Grand Jury conducted an interview with the principal of the senior high school cited in the allegations. He stated he was not familiar with all the requirements of the procedures set forth in the AP. He only became aware of the procedure when he reviewed the records requested by the Grand Jury prior to his interview. He further stated, "Senior high school photos are way down on a principal's list of priorities." Additionally, the principal explained that as long as quality photos were provided and students were happy with their yearbooks and senior portraits, he would spend his time on more immediate issues.

A second competing bid was rejected based on the principal's experience with the competitor's issues of quality at another senior high school. It was noted by the Grand Jury's review of the AP that subjective choices covering quality of performance factors are specifically allowed.

¹ <http://old.sandi.net/policy/pdf/pp4938.pdf>

Further study revealed that identical scenarios existed at a number of other senior high schools in SDUSD. The other schools, contacted by telephone in disparate geographic areas of the district, could not produce the required bidding materials from previous years. Procedural errors were indeed made in the process. There were only two, not three bids considered and they were not sealed bids. In addition, the requirement for notifying unsuccessful bidders was not followed. Administrative officials at the senior high schools contacted stated they had not followed the AP but stated they would follow appropriate procedures in the future.

The AP provides that the principal may delegate the responsibility of selecting a photographer to a staff member more involved in the end use of the photos. In fact, the principal and the designated staff member discussed the possibility of using another photographer; however, based on their past experiences, both agreed to select the photographer who produces a quality product while meeting all other requirements.

A review of the bids of the senior high schools contacted showed that most photographic packages offered were essentially the same. There were minor variations in price and the extras offered, such as staff photos or photos for the yearbook. Therefore, it is reasonable to base selection on quality and/or a history of a photographer meeting specifications in a timely manner.

FACTS AND FINDINGS

Fact: At least four senior high schools failed to follow the procedures outlined in the AP on one, and probably more, occasions.

Fact: When site administrators were informed of the AP's requirements, they stated that they planned to implement them in the future.

Finding 01: School administrators are not familiar with the procedures for awarding school photography contracts.

Finding 02: The principal is responsible for everything that occurs at his/her school; however, it is necessary and prudent to delegate responsibility for certain activities to staff members as provided in the AP.

Finding 03: School administrators must follow established procedures for any activity involving financial matters, regardless of the amount or who pays.

RECOMMENDATIONS

The 2010/2011 San Diego County Grand Jury recommends that the Superintendent of the San Diego Unified School District:

11- 12: Ensures Administrative Procedures addressing any financial issue are reviewed and updated in a timely manner.

- 11-13: Requires senior high school principals to review all financial procedures before the start of each school year.**
- 11-14: Discusses the importance of following written procedures with all high school principals annually.**
- 11-15: Randomly and routinely audits senior high school principals' compliance with contract award procedures.**

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
Superintendent		
San Diego Unified School District	11-12 through 11-15	7/13/11